

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 2, 2011

The Maple River Water Resource District met on September 2, 2011, at 9:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Rodger Olson, Chairman; Jurgen Suhr, Manager; Wesley Beilke, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Diane Pochardt, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Chad Engels, Engineer for the Board; Ryan Schultz, property owner in Eldred Township and those whose names appear on the attached roster.

Lake Bertha High Water Outlet

Kurt Tompkins, District Manager, U.S. Fish & Wildlife Service met with the Board to discuss the high water levels and the need for an outlet on Lake Bertha, located south of Cass County Highway 6 in Sections 15, 16 and 21 of Eldred Township. Mr. Tompkins discussed several benefits to lowering Lake Bertha including, restored vegetation, improved habitat and to lower water levels for area property owners. He presented pictures of the area from the early 1960's and later of the Waterfowl Production Area showing the progression of increased water levels.

Chairman Olson said the channel below this area needs to be cleaned out, but a project to do so was voted down. He indicated he is in favor of getting rid of excess water, but is concerned about putting more water on a poor downstream system. Without support from the property owners, the work cannot proceed.

Ryan Schultz would like to see a channel dug with a control structure that would run during the summer. David Gulland said the high water has made travel difficult in the area and he has lost many acres of crop. Manager Belke said an outlet would help the county, townships and property owners. He agreed that some type of control should be used on the channel so the water is released slowly. Cass County Wildlife Club members indicated they are interested in a solution to the problems also.

The U.S. Fish & Wildlife Service currently does not have funds to assist with the project, however, they could furnish equipment with an operator. The Board directed Moore Engineering, Inc. to conduct a survey in the area near the culverts through Cass County Highway 6 between Sections 9 and 16 in Eldred Township.

Drainage Complaint from Brian Roach against David Gulland in the NW 1/4 of Section 4 in Wheatland Township

The Board discussed the Drainage Complaint filed by Brian Roach against David Gulland dated July 12, 2011, regarding work done in the NW 1/4 of Section 4 in Wheatland Township. Sean Fredricks explained the complaint process and said if 80 acres or more were drained, Mr. Gulland needs a permit. Chad Engels believed that area drained would be less than 80 acres. Upon further discussion, Mr. Roach decided to withdraw the Complaint.

Drain #14 bridge replacements between Sections 20 and 29 of Mapleton Township

Jason Benson, Cass County Engineer, reported the Cass County Highway Department is planning to replace the bridge on Drain #14 between Sections 20 and 29 in Mapleton Township in 2012. He said the estimated cost is \$600,000 and the Water Resource District cost share would be approximately \$360,000. Mr. Engels will work with the county to see if the bridge could be replaced with pipe, which would be less costly.

Drain #14 – tree spraying between I-94 and Cass County Highway 10

The Board discussed spraying trees on Drain #14 right of way between I-94 and Cass County Highway 10. Brady Woodard, Moore Engineering, Inc., will work with L & M Road Services on the project.

Maple River drain reassessments / combining drains

It was moved by Manager Suhr and seconded by Manager Beilke to authorize Sean Fredricks and Chad Engels to prepare the necessary documents for the reassessment of Drains #15, 39, 58 and 59 into Maple River Assessment District 1 (MR-1); Drain #14, 34 and 36 into Maple River Assessment District 2 (MR-2); and Drain #37. Upon roll call, the motion carried unanimously.

Drain #56 crossing through State Highway 38 – Amendment to the NDDOT Contract No. 38112204

It was moved by Manager Suhr and seconded by Manager Beilke to approve the amendment to NDDOT Contract No. 38112204 regarding the Drain #56 crossing through State Highway 38, approximately 2.75 miles south of Page, North Dakota, to increase the total dollar amount of the project. Upon roll call, the motion carried unanimously.

Drain #58 approach / culvert in the NE 1/4 of Section 17 in Leonard Township

Kent Roesler contacted Chairman Olson about increasing the culvert size or removing the approach along Drain #58 in the NE 1/4 of Section 17 in Leonard Township for improved drainage of his land. Chairman Olson and Brady Woodard will meet with Mr. Roesler and a township official to look at the site.

Application to Install a Subsurface Drain #201119 for Jim Wieland in the S 1/2 of Section 33 in Ayr Township

The Board reviewed *Application to Install a Subsurface Drain No. 201119* dated June 21, 2011, for Jim Wieland. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the S 1/2 of Section 33 in Ayr Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge through an underground pipe buried in the north road ditch of Cass County Highway 32 along the southern border in the SE 1/4 of Section 33 in Ayr Township. The underground tile outlet will then discharge to the south into the NE 1/4 of Section 5 in Buffalo Township. The discharge will enter a natural waterway in the NE 1/4 of Section 5.

Mr. Engels reviewed the application and submitted his recommendation to the Board that, because the project will include installation of tile or at least buried pipe in the SE 1/4 of Section 33, property not owned by Applicant, the Board should require Applicant to obtain an easement from the owners of the SE 1/4 in Section 33. In addition, because the project will discharge over a portion of the N 1/2 NE 1/4 of Section 5 in Buffalo Township. Mr. Engels recommended that the Board requires a flowage easement from the owner of that parcel. The Maple River Water Resource District provided a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1 and the Board did not consider or approve the application until 30 days expired from the date the Board provided the notice.

According to records on file with the Cass County Recorder's Office, Jim Wieland, John Kringler, and Wieland Investments, LLLP, all have ownership interests regarding the SW 1/4 of Section 33 in Ayr Township. Further, according to records on file with the Cass County Recorder's office, Gary and Audrey Grieve own the SE 1/4 of Section 33. Finally, Alta Beilke owns the N 1/2 NE 1/4 of Section 5 in Buffalo Township.

It was moved by Manager Suhr and seconded by Manager Beilke to approve *Application to Install a Subsurface Drain No. 201119* dated June 21, 2011, for Jim Wieland in the S 1/2 of Section 33 in Ayr Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owner of the N 1/2 NE 1/4 of Section 5 in Buffalo Township, Cass County, North Dakota;
- 2) That Applicant obtain an easement from the owners of the SE 1/4 in Section 33 for purposes of installing and constructing the tile system;
- 3) That Applicant obtain easements from the owners of any other land, besides land owned by Applicant, on which Applicant will construct the tile system;

- 4) That Applicant obtain written permission from Cass County to bury pipe or tile in its Cass County Highway 32 road ditch, to otherwise utilize any of Cass County's highway right of way, or to bore through its highway, if applicable;
- 5) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 6) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201121 for Dan Heuer in the NE 1/4 of Section 16 in Leonard Township

The Board reviewed *Application to Install a Subsurface Drain No. 201121* dated June 23, 2011, for Dan Heuer. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the NE 1/4 of Section 16 in Leonard Township, Cass County, North Dakota. The project will include a pump outlet that will discharge from the northeast corner of Section 16 into the south road ditch of the township road that acts as the north boundary of Section 15 in Leonard Township. The discharge will flow through the south road ditch one mile along the northern boundary in Section 15 until the tile discharge ultimately empties into Cass County Drain #15.

Mr. Engels reviewed the application and submitted his recommendation to the Board that, because the project will discharge into a township road ditch and will flow across the northern boundary in Section 15 for one mile before reaching Drain #15, the Board should require Applicant to obtain a flowage easement from the owners of the N 1/2 N 1/2 in Section 15. The Board provided a *Thirty-Day Notice* to the owners of the N 1/2 N 1/2 in Section 15 under N.D. Cent. Code Section 61-32-03.1, and the Board did not consider or approve the application until at least 30 days expired from the date the Board mailed the notice. Mr. and Mrs. Logemann submitted a letter for the Board's consideration in response to the *Thirty-Day Notice*. The Board reviewed and discussed the Logemanns' letter. The letter is on file with the Secretary-Treasurer's office.

According to records on file with the Cass County Recorder's Office, Applicant owns the NE 1/4 in Section 16. Further, according to records on file with the Cass County Recorder's office, Darrell and Coe Logemann own the N 1/2 N 1/2 in Section 15.

It was moved by Manager Suhr and seconded by Chairman Olson to approve *Application to Install a Subsurface Drain No. 201121* dated June 23, 2011, for Dan Heuer in the NE 1/4 of Section 16 in Leonard Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the N 1/2 N 1/2 of Section 15 in Leonard Township, Cass County, North Dakota;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant obtain written permission from the Leonard Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 5) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201122 for Todd Weber in the SE 1/4 of Section 9 in Gill Township

The Board reviewed *Application to Install a Subsurface Drain No. 201122* dated June 27, 2011, for Todd Weber. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the SE 1/4 of Section 9 in Gill Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge through a buried pipeline in the south township road ditch along the township road that acts as the northern boundary of the NW 1/4 in Section 15. At the half section line, the buried pipe will outlet and the tile discharge will flow through an existing open ditch along the half section line between the NW 1/4 in Section 15 and the NE 1/4 of Section 15 in Gill Township.

Mr. Engels reviewed the application and submitted his recommendation to the Board that, because the project will include buried pipeline along the N 1/2 NW 1/4 in Section 15, and will include tile discharge along the half section line between the NW 1/4 and the NE 1/4 in Section 15, the Board should require Applicant to obtain the appropriate

easements. The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1. Applicant subsequently notified the Board that he no longer intended to discharge across the entire N 1/2 N 1/2 in Section 15; instead, Applicant plans to locate buried pipeline to the half section line on the north boundary of Section 15, then to direct the tile discharge to the south along the half section line.

According to records on file with the Cass County Recorder's office, Todd Weber, Jim Wieland, and Wieland Investments, LLLP, all have ownership interests in the SE 1/4 of Section 9 in Gill Township. Marilyn McLean owns the NW 1/4 in Section 15. Ms. McLean also owns the W 1/2 NE 1/4 in Section 15. Beverly Miller and David and Linda Vandrovec have ownership interests in the E 1/2 E 1/2 in Section 15; Applicant contacted the Board and indicated the tile project no longer includes a plan to discharge water over the E 1/2 E 1/2 in Section 15, and rather Applicant currently plans to discharge the water south along the half section line between the NW 1/4 and the NE 1/4 in Section 15.

It was moved by Manager Suhr and seconded by Manager Beilke to approve *Application to Install a Subsurface Drain No. 201122* dated June 27, 2011, for Todd Weber in the SE 1/4 of Section 9 in Gill Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Gill Township, Cass County, North Dakota:
 - a. The E 1/2 NW 1/4 in Section 15; and
 - b. The W 1/2 NE 1/4 in Section 15.
- 2) That Applicant obtain an easement from the owner of the N 1/2 NW 1/4 in Section 15 to bury pipeline along the north boundary of the NW 1/4;
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant obtain written permission from the Gill Township Board of Township Supervisors to bury pipeline in its township road right of way, or to otherwise utilize, any of its township road ditches;
- 5) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 6) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201123 for Todd Weber in the S 1/2 of Section 24 in Wheatland Township

The Board reviewed *Application to Install a Subsurface Drain No. 201123* dated June 27, 2011, for Todd Weber. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the S 1/2 of Section 24 in Wheatland Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge into the SW 1/4 of Section 19 in Casselton Township. The project will include buried pipeline in a portion of the SW 1/4 in Section 19; at some point, the project will discharge from the buried pipeline and will flow east across a portion of the SW 1/4 in Section 19 and a portion of the W 1/2 SE 1/4 in Section 19 until the discharge reaches a natural waterway in the W 1/2 SE 1/4 in Section 19.

Mr. Engels reviewed the application and submitted his recommendation to the Board that, because the project will include buried pipeline across private property not owned by Applicant, and because the project will discharge across private property not owned by Applicant, the Board should require Applicant to obtain the appropriate easements. The Board provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1, and the Board did not approve the application until at least 30 days expired from the date the Board issued the notices. The Board did not receive any written comments.

According to records on file with the Cass County Recorder's Office, Applicant owns the S 1/2 in Section 24 along with Jim Wieland. Further, Mr. Kenneth Hanson owns the SW 1/4 in Section 19, and Ms. Nancy McLaughlin owns the W 1/2 SE 1/4 in Section 19.

It was moved by Manager Suhr and seconded by Manager Beilke to approve *Application to Install a Subsurface Drain No. 201123* dated June 27, 2011, for Todd Weber in the S 1/2 of Section 24 in Wheatland Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Casselton Township, Cass County, North Dakota:
 - a. The SW 1/4 in Section 19; and
 - b. The W 1/2 SE 1/4 in Section 19.
- 2) That Applicant obtain an easement from the owner in the SW 1/4 of Section 19 in Casselton Township to bury pipeline in a portion of the SW 1/4 in Section 19;

- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 5) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

State Water Commission Agreement for cost share on the Upper Maple River Dam Project

It was moved by Manager Suhr and seconded by Manager Beilke to approve the State Water Commission Agreement for cost share participation on the Upper Maple River Dam Development and Preliminary Engineering 2008-2010 Project. Upon roll call vote, the motion carried unanimously.

State Water Commission Agreement for cost share on the Jeffrey Askew ring dike in the NE 1/2 NW 1/4 of Section 5 in Durbin Township

It was moved by Manager Beilke and seconded by Manager Suhr to approve the State Water Commission Agreement for cost share on the Jeffrey Askew ring dike in the NE 1/2 NW 1/4 of Section 5 in Durbin Township. Upon roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Suhr and seconded by Manager Beilke and unanimously carried to approve the minutes of the August 3, 2011, meeting, as presented.

Bills

It was moved by Manager Suhr and seconded by Manager Beilke to approve payment of Checks #4843 through #4851 and the electronic funds transfer. Upon roll call vote, the following Managers voted in favor: Olson, Suhr and Beilke. The Chairman declared the motion passed.

Adjournment

There being no further business for the Board to consider, the meeting adjourned without objection.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer